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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

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17. Signature and Title of Editor, Publisher, Business Manager, or Owner <i>Burt Wood, Director of Adm. Rules</i>			Date <i>9-28-05</i>
I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).			

Instructions to Publishers

- Complete and file one copy of this form with your postmaster annually on or before October 1. Keep a copy of the completed form for your records.
- In cases where the stockholder or security holder is a trustee, include in items 10 and 11 the name of the person or corporation for whom the trustee is acting. Also include the names and addresses of individuals who are stockholders who own or hold 1 percent or more of the total amount of bonds, mortgages, or other securities of the publishing corporation. In item 11, if none, check the box. Use blank sheets if more space is required.
- Be sure to furnish all circulation information called for in item 15. Free circulation must be shown in items 15d, e, and f.
- Item 15h., Copies not Distributed, must include (1) newsstand copies originally stated on Form 3541, and returned to the publisher, (2) estimated returns from news agents, and (3), copies for office use, leftovers, spoiled, and all other copies not distributed.
- If the publication had Periodicals authorization as a general or requester publication, this Statement of Ownership, Management, and Circulation must be published; it must be printed in any issue in October or, if the publication is not published during October, the first issue printed after October.
- In item 16, indicate the date of the issue in which this Statement of Ownership will be published.
- Item 17 must be signed.

Failure to file or publish a statement of ownership may lead to suspension of Periodicals authorization.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2002.

Executive Order 05-26

WHEREAS, I have been advised by the Director of the State Emergency Management Agency that the States of Louisiana, Mississippi, Florida, and Alabama are requesting assistance under the Emergency Mutual Aid Compact (EMAC), codified in Missouri at Section 44.415, RSMo, in response to Hurricane Katrina; and

WHEREAS, the EMAC is designed to protect the safety and welfare of the citizens in the affected participating EMAC states; and

WHEREAS, as a result of Hurricane Katrina, hundreds of thousands of inhabitants in the coastal communities of the States of Louisiana, Mississippi, Florida, and Alabama have been forced to evacuate this disaster stricken region; and

WHEREAS, due to the widespread loss of power and inhospitable conditions in the disaster stricken region, the ability of many health care facilities to provide necessary care to patients that were hospitalized prior to, or as a result of, Hurricane Katrina has been severely compromised; and

WHEREAS, the conditions wrought by Hurricane Katrina have necessitated the immediate evacuation of these vulnerable patients and their caregivers from the disaster stricken region and requires their placement in affiliated healthcare facilities where proper care can be rendered; and

WHEREAS, these patients and their caregivers have requested refuge in certain affiliated healthcare facilities located within the State of Missouri; and

WHEREAS, protection of the safety and welfare of the citizens in the affected communities requires an invocation of the provisions of Section 44.415, RSMo, which provides for emergency mutual aid with other states, and Section 44.100, RSMo, which authorizes the Governor to waive or suspend the operation of any statutory requirement or administrative rule regarding the licensing, certification or issuances of permits evidencing professional skills during the existence of a state of emergency.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by Section 44.100, RSMo and Section 44.415, RSMo do hereby declare a state of emergency in Missouri occasioned by the impending influx of substantial numbers of hospitalized individuals from the disaster stricken regions of Louisiana, Mississippi, Florida, and Alabama to affiliated healthcare facilities in the State of Missouri. This influx of patients will compromise the ability of Missouri health care providers to care for existing patients as well as evacuees, creating a substantial risk to the safety and welfare of inhabitants of the State of Missouri. As such, I do hereby suspend the operation of any statutory requirements or administrative rules

regarding the licensing, certification or issuance of permits evidencing professional skills for the healthcare providers accompanying and providing direct care to evacuees in affiliated healthcare facilities. The suspension of the appropriate statutory requirements or administrative rules regarding the licensing, certification or issuance of permits to the subject healthcare providers shall only apply with regard to their treatment of evacuees from the disaster stricken regions of Louisiana, Mississippi, Florida, and Alabama and only for treatment rendered in affiliated healthcare facilities.

This order shall terminate upon the declaration of an end to the emergency, or October 15, 2005 unless extended in whole or in part.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 2nd day of September, 2005.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State

**Executive Order
05-27**

WHEREAS, I have been advised by the Director of the State Emergency Management Agency that the States of Louisiana, Mississippi, Alabama and Florida are requesting assistance under the Emergency Mutual Aid Compact (EMAC), codified in Missouri at Section 44.415, RSMo, in response to Hurricane Katrina; and

WHEREAS, the EMAC is designed to protect the safety and welfare of the citizens in the affected participating EMAC states; and

WHEREAS, as a result of Hurricane Katrina, hundreds of thousands of inhabitants in the coastal communities of the States of Louisiana, Mississippi, Alabama and Florida have been forced to evacuate this disaster stricken region; and

WHEREAS, due to the widespread loss of power and inhospitable conditions in the disaster stricken region, the ability of many health care facilities to provide necessary care to patients that were hospitalized prior to, or as a result of, Hurricane Katrina has been severely compromised; and

WHEREAS, the conditions wrought by Hurricane Katrina have necessitated the immediate evacuation of these vulnerable patients and their caregivers from the disaster stricken region and requires their placement in facilities where proper care can be rendered; and

WHEREAS, the medical community and the states impacted by Hurricane Katrina have requested that patients requiring evacuation and treatment be given refuge at health care facilities located within Missouri, whether existing or established for the specific purpose of providing treatment to evacuees; and

WHEREAS, an influx of substantial numbers of patients from the states impacted by Hurricane Katrina will overburden health care professionals in Missouri unless additional health care professionals licensed in other states are permitted to assist with the care of these individuals; and

WHEREAS, protection of the safety and welfare of the citizens in the affected communities requires an invocation of the provisions of Section 44.415, RSMo, which provides for emergency mutual aid with other states, and Section 190.500, RSMo, which authorizes the temporary licensure of out-of-state healthcare providers in Missouri when the Governor has declared a state of emergency pursuant to Section 44.100, RSMo.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by Section 44.100, RSMo and Section 44.415, RSMo do hereby declare a state of emergency in Missouri occasioned by the impending influx of substantial numbers of hospitalized individuals from the disaster stricken regions of Louisiana, Mississippi, and Alabama and Florida to healthcare facilities in the State of Missouri. This influx of patients will compromise the ability of Missouri healthcare providers to care for existing patients as well as evacuees, creating a substantial risk to the safety and welfare of inhabitants of the State of Missouri. As such,

I do hereby direct all relevant state agencies to facilitate the temporary licensure, pursuant to Section 190.500, RSMo, of any healthcare providers accompanying and/or providing direct care to evacuees. Temporary licensure pursuant to Section 109.500, RSMo shall only apply with regard to the subject healthcare providers' treatment of evacuees from the disaster stricken regions of Louisiana, Mississippi, Alabama and Florida and only in facilities in which they are approved to provide care by the appropriate licensing board or commission of the State of Missouri.

This order shall terminate upon the declaration of an end to the emergency, or October 15, 2005 unless extended in whole or in part.



ATTEST:

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 2nd day of September, 2005.

Matt Blunt
Governor

Robin Carnahan
Secretary of State

**Executive Order
05-28**

Whereas, I have been advised by the Director of the State Emergency Management Agency that the Federal Emergency Management Agency (FEMA) is requesting assistance in relocating disaster victims from those States impacted by Hurricane Katrina to the State of Missouri; and

Whereas, FEMA has asked Missouri to provide any necessary support, to include, personnel, equipment, and resources, in order to provide for the efficient operation of this relocation effort; and

Whereas, this relocation effort is necessary to help relieve the condition of distress and hazard to the safety and welfare of our fellow Americans; and

Whereas, it is beyond the capabilities of the affected States to effectively handle the large numbers of disaster victims; and

Whereas, the influx of large numbers of disaster victims from the States impacted by Hurricane Katrina will have a significant impact on the citizens and resources of Missouri; and

Whereas, protection of the safety and welfare of the citizens of the State requires an invocation of the provisions of Sections 44.100 and 44.110, RSMo.

Now, Therefore, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and Laws of the State of Missouri, including Sections 44.100 and 44.110, RSMo, do hereby declare that a State of Emergency exists in the State of Missouri. I do hereby direct that the Missouri State Emergency Operations Plan be activated.

I further authorize the use of state agencies to provide support to this relocation effort, as needed.

This order shall terminate on October 4, 2005, unless extended in whole or in part.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4th day of September, 2005.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State

**Executive Order
05-29**

Whereas, I have been advised by the Director of the State Emergency Management Agency that the Federal Emergency Management Agency (FEMA) is requesting assistance in relocating disaster victims from those States impacted by Hurricane Katrina to the State of Missouri; and

Whereas, FEMA has asked Missouri to provide any necessary support, to include, personnel, equipment, and resources, in order to provide for the efficient operation of this relocation effort; and

Whereas, this relocation effort is necessary to help relieve the condition of distress and hazard to the safety and welfare of our fellow Americans; and

Whereas, it is beyond the capabilities of the affected States to effectively handle the large numbers of disaster victims; and

Whereas, the influx of large numbers of disaster victims from the States impacted by Hurricane Katrina will have a significant impact on the citizens and resources of Missouri; and

Whereas, protection of the safety and welfare of the citizens of the State requires an invocation of the provisions of Section 41.480.2, RSMo.

Now, Therefore, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and Laws of the State of Missouri, including Section 41.480.2, RSMo, order and direct the Adjutant General of the State of Missouri, or his designee, to forthwith call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and it is further ordered and directed that the Adjutant General or his designee, and through him, the commanding officer of any unit or other organization of such organized militia so called into active service take such action and employ such equipment as may be necessary in support of civilian authorities, and provide such assistance as may be authorized and directed by the Governor of this State.

This order shall terminate on October 4, 2005, unless extended in whole or in part.



ATTEST:

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4th day of September, 2005.

Matt Blunt
Governor

Robin Carnahan
Secretary of State

**EXECUTIVE ORDER
05-30**

WHEREAS, since 1990, the Office of Administration, State of Missouri has endeavored to "establish and implement a plan to increase and maintain the participation of certified socially and economically disadvantaged small business concerns or minority business enterprises, directly or indirectly, in contracts for supplies, services, and construction contracts, consistent with targets determined after an appropriate study conducted to determine the availability of socially and economically disadvantaged small business concerns and minority business enterprises in the marketplace;" pursuant to Senate Bills 808 & 672 passed by the General Assembly and signed into law by then Governor Ashcroft; and

WHEREAS, such a study was conducted and found statistically significant disparities in state contractual expenditures for construction and the purchase of goods and services, as compared to the ready, willing and able minority and women-owned business enterprises (M/WBEs) in the state; and

WHEREAS, Executive Order 98-21 established goals to increase the percentage of goods and services procured from certified M/WBEs; and

WHEREAS, the goals for M/WBE participation established in Executive Order 98-21 have not been substantially met; and statistically significant disparities in state contractual expenditures for construction and the purchase of goods and services from minority and women-owned businesses in the state still exist; and

WHEREAS, on September 27, 2004, Behavioral Interventions, Inc. filed a lawsuit in the U.S. District Court, in the Western District of Missouri challenging the propriety of Missouri's M/WBE program. In January 2005, a preliminary injunction was issued ordering the Office of Administration, State of Missouri to suspend the placing of M/WBE requirements in any procurement by the State of Missouri. Because of the uncertainty created in the aftermath of the litigation, the program has undergone comprehensive revision not only to withstand constitutional scrutiny, but also to more adequately address the compelling needs and obstacles of minority and women-owned businesses to gain greater access to business opportunities, both public and private, within the state of Missouri; and

WHEREAS, the State of Missouri is dedicated to the compelling governmental interest in remedying race and sex based discrimination in a manner consistent with state and federal law; and

WHEREAS, the State of Missouri is committed to enhancing the economic health and prosperity of the state by promoting the greater use of minority and women-owned businesses. Job creation for Missouri residents, and therefore the success of minority and women-owned businesses, are paramount goals of this Administration; and

WHEREAS, the State of Missouri will gain enormously from improvements in expanded business opportunities for Missouri residents created by the expansion of minority and

women-owned businesses and through the additional tax revenues generated by those individuals and businesses; and

WHEREAS, to further these goals, which are of the highest priority of this Administration, it is the policy of this Administration to develop economic opportunities for minority and women-owned businesses wherever possible.

NOW, THEREFORE, I, Matt Blunt, Governor of the State of Missouri, under the authority vested in me under the constitution and the laws of this state, to fulfill the mandate of the General Assembly in Senate Bills 808 & 672 and to pursue the compelling interest of remedying discrimination, do hereby declare the following narrowly tailored policies and procedures shall be adopted by the Executive Branch of state government in procuring all types of goods and services:

1. The Office of Supplier and Workforce Diversity (OSWD) is established to replace the Office of Equal Opportunity. All the authority, powers and privileges of the Office of Equal Opportunity is transferred to the OSWD. The Director of OSWD shall be appointed by the Governor. The Director of OSWD shall report to the Commissioner of Administration. The Director shall have primary responsibility for assisting in the coordination and implementation of affirmative action throughout all departments of the executive branch of state government, including programs to increase M/WBE participation, and advising the Governor on issues regarding equal employment opportunity, affirmative action, and efforts to administer affirmative action goals and timetables for implementation throughout the departments of the executive branch.

The Office of State Compliance Officer is hereby abolished. The Director of OSWD shall be the State's chief compliance officer for the executive branch of state government to ensure that the State of Missouri is complying with all federal and state laws concerning equal employment opportunity and affirmative action. If needed, the Director shall assist each department in developing an Affirmative Action Plan of Implementation. Additionally, the Director of OSWD shall review progress reports of the departments and shall meet biannually with each department director to evaluate departmental results and determine the course of future affirmative action goals, timetables, recruiting, planning, and implementation. The results of each meeting shall be reported in writing to the Governor and Commissioner of Administration.

Not later than January first of each calendar year, the Director of OSWD shall provide a report to the Governor and the Commissioner of Administration which summarizes the activities of each department pursuant to this Order and which contains recommendations for additional programs to accomplish the purposes of this Order.

The Commissioner of Administration shall provide the Director of OSWD with such facilities, staff, resources, equipment, and supplies as are necessary to carry out the duties set forth herein. The Director of OSWD shall submit a proposal each fiscal year to the Commissioner of Administration detailing the

needs of the Office of Supplier and Workforce Diversity.

2. All state agencies shall continue to make every feasible effort to target the percentage of goods and services procured from certified MBEs and WBEs to 10% and 5%, respectively. These efforts shall include participation in an Executive Branch Contract Compliance Council which shall, in cooperation with the OSWD, review procurement efforts to assist in meeting the requirements of this Executive Order.
3. The Divisions of Purchasing and Materials Management (PMM) and Facilities Management, Design and Construction (FMDC) within the Office of Administration shall be authorized to implement the following programs to increase M/WBE procurement:

- a. PMM shall be authorized to encourage prime contractors to subcontract with M/WBEs on all contracts of \$100,000 or greater. OSWD contracts shall include a provision for participation which will allow the bidders to tailor a plan to fit the contract. Mandatory percentage goals of M/WBE participation shall not be established in violation of federal or state law. M/WBE participation shall be encouraged by PMM in consultation with OSWD and the user agency depending on the availability of M/WBE vendors in the applicable commodity/service and geographical area. PMM shall consider M/WBE participation as a significant factor in a contract bid. The M/WBE participation will be evaluated along with other criteria in the award of a bid. It is intended that 10% MBE and 5% WBE percentage is desired. The participation can be met through the use of prime contractors, subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for M/WBE participation.

OSWD in conjunction with PMM shall also appoint a M/WBE Purchasing Manager for the purpose of promoting and coordinating the participation of M/WBEs in State of Missouri contracts.

- b. FMDC shall be authorized to evaluate M/WBE participation in design contracts, as part of the quality-based selection process, for construction projects worth \$1.5 million or more. On contracts with lesser value, FMDC shall make special efforts to target M/WBEs as prime contractors. Overall participation targets for each fiscal year shall be 10% MBE and 5% WBE; however, mandatory percentage goals shall not be established in violation of federal or state law. The targets may be met through the use of prime contractors, subcontractors, joint ventures, or other arrangements that afford meaningful opportunities for M/WBE participation.

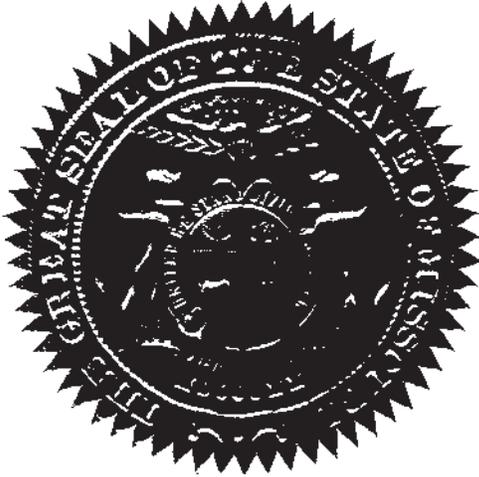
FMDC shall also be authorized to seek participation of M/WBEs on construction contracts. The targets shall be set on a project by project basis by FMDC in consultation with the OSWD, taking into account the availability of M/WBE contractors in the applicable geographic area and construction trade, with the overall participation targets for each fiscal year at 10% MBE and 5% WBE. The targets may be met through the use of prime contractors,

subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for M/WBE participation.

- c. Both FMDC and the PMM shall establish policies or rules to implement these programs which shall include a waiver provision for prime contractors who make a good faith effort to attain such targets but do not succeed. They shall also establish enforcement procedures in cooperation with the OSWD to assist contractors to meet subcontracting commitments. Their programs shall be reviewed annually to determine whether targets should be modified.
 - d. FMDC and PMM are authorized and directed to identify and consult with such entities as the St. Louis Minority Business Council, the Kansas City Minority Supplier Council and the Kansas City Council of Women Business Owners in identifying M/WBEs to participate in state procurements.
4. OSWD shall monitor the programs and work with FMDC and PMM in their implementation. The OSWD shall have the following responsibilities and carry out the following tasks:
- a. to actively recruit, facilitate and serve as a clearinghouse for M/WBE contractors to participate in the programs;
 - b. to cooperate with the PMM and the FMDC in the administration and enforcement of the M/WBE participation programs;
 - c. to cooperate with the PMM and the FMDC in the development of policies, forms, and procedures to carry out the requirements of the M/WBE participation programs;
 - d. to participate in M/WBE target setting;
 - e. to perform fact-gathering and record-keeping to determine both the effectiveness of state participation programs and the availability and utilization of eligible M/WBEs on individual projects, including levels of participation and availability in specific areas;
 - f. to certify contractors as M/WBEs;
 - g. to assess the continuing need for M/WBE participation targets for specific contracting areas;
 - h. to monitor contractor participation with M/WBE targets; and
 - i. to recommend sanctions for contractors who fail to faithfully execute M/WBE participation plans during the course of contract performance.
5. The programs shall be reviewed annually to monitor the level of M/WBE participation achieved in state contracting areas during the previous year. An

assessment of the programs and whether their continuation is necessary shall be delivered to the Governor and the General Assembly. After it is determined that M/WBEs participate in state contracts in a manner commensurate with their presence and capability in the state marketplace, the programs set forth in section 2 will be terminated.

6. Executive Order No. 98-21 (1998) and article II of Executive Order 94-03 (1994) are hereby superseded and replaced by this Executive Order.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 8th day of September, 2005.

A handwritten signature in black ink, appearing to read "Matt Blunt", written over a horizontal line.

Matt Blunt
Governor

ATTEST:

A handwritten signature in black ink, appearing to read "Robin Carnahan", written over a horizontal line.

Robin Carnahan
Secretary of State